IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :18174 of 2006

Dated: 13th September 2006.

Between:

M/s. Bhavya Enterprises, Vijayawada.

..... PETITIONER

AND

The Joint Commissioner of Commercial Taxes (Legal),
O/o The Commissioner of Commercial Taxes,
Commercial Taxes Building, M.G.Road, Nampally,
Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

W.P.NO.18174 OF 2006

ORAL ORDER:
(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a proprietary concern; a registered dealer under the provisions of the A.P.G.S.T. Act, 1957 and an assessee on the rolls of the 3rd respondent herein. The petitioner is engaged in the distribution of bottled soft drinks (Coca Cola). For the assessment year 2003-04, the petitioner's liability for tax under the above-referred Act, came to be assessed by an order dated 28-09-2004. Aggrieved by the same, the petitioner carried the matter in appeal before the 2nd respondent, which came to be dismissed by an order dated 26-12-2005 and against which further appeal was filed before the Sales Tax Appellate Tribunal along with an application seeking stay of recovery of the tax before the 1st respondent and the same was dismissed by an order dated 25-05-2006. Hence, the present writ petition with the prayer as follows:

> " For the reasons stated in the accompanying affidavit, the Petitioner prays that this Hon'ble Court may be pleased to issue an appropriate writ, order or direction particularly in the nature of Writ of Mandamus declaring the impugned proceedings of the first respondent in the CCT's. Ref. No.LV(2)/863/2006 dated 25-05-2006

dismissing the stay petition filed by the petitioner firm for assessment year 2002-2003 as illegal, arbitrary, improper, unjust and without application of mind as it amounts to collection of tax more than 12% and that too from two dealers in view of the revisions/proceedings issued by the revisional assessing authorities on the manufacturers levying tax on the alleged rental values @ 12% in terms of Entry-21 of the 6th Schedule to the APGST Act and consequently directing the third respondent not to take coercive steps for recovery of the tax in dispute for the above mentioned assessment years, pending disposal of the appeal petition on the file of Sales Tax Appellate Tribunal Additional Bench At Visakhapatnam and grant such other relief or reliefs as are deemed fit and proper in the circumstances of the case."

Heard the learned Government Pleader for Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of by directing the respondents not to take any coercive steps for recovery of the tax mentioned above from the petitioner on condition of the petitioner depositing 50% of the disputed tax, within a period of four weeks from today. The amount of tax paid already paid, if any, with reference to the abovementioned assessment year, shall be given credit to while computing the 50% of the disputed tax.

Accordingly, with the above directions, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

13th September 2006
mrk